

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 503

To require all providers of telecommunications services to establish and carry out plans for procurement from businesses owned by minorities and women, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 13, 1995

Mrs. COLLINS of Illinois introduced the following bill; which was referred to the Committee on Commerce

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## A BILL

To require all providers of telecommunications services to establish and carry out plans for procurement from businesses owned by minorities and women, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION. 1. SHORT TITLE; FINDINGS.**

4       (a) SHORT TITLE.—This Act may be cited as the  
5       “Telecommunications Economic Opportunity Act of  
6       1995”.

7       (b) FINDINGS.—The Congress finds the following:

1           (1) It is in the public interest for business en-  
2           terprises owned by minorities and women to partici-  
3           pate in procurement contracts of all providers of  
4           telecommunications services.

5           (2) The opportunity for full participation in our  
6           free enterprise system by business enterprises that  
7           are owned by minorities and women is essential if  
8           this Nation is to attain social and economic equality  
9           for those businesses and improve the functioning of  
10          the national economy.

11          (3) It is in this Nation's interest to expedi-  
12          tiously improve the economically disadvantaged posi-  
13          tion of business enterprises that are owned by mi-  
14          norities and women.

15          (4) The position of these businesses can be im-  
16          proved through the development by the providers of  
17          telecommunications services of substantial long-  
18          range and annual goals, which are supported by  
19          training and technical assistance, for the purchase,  
20          to the maximum practicable extent, of technology,  
21          equipment, supplies, services, material and construc-  
22          tion from minority business enterprises.

23          (5) Procurement policies which include partici-  
24          pation of business enterprises that are owned by mi-  
25          norities and women also benefit the communication

1 industry and its consumers by encouraging the ex-  
2 pansion of the numbers of suppliers for procure-  
3 ment, thereby encouraging competition among sup-  
4 pliers and promoting economic efficiency in the proc-  
5 ess.

6 **SEC. 2. PURPOSE.**

7 The purposes of this Act are—

8 (1) to encourage and foster greater economic  
9 opportunity for business enterprises that are owned  
10 by minorities and women;

11 (2) to promote competition among suppliers to  
12 providers of telecommunications services and their  
13 affiliates to enhance economic efficiency in the pro-  
14 curement of telephone corporation contracts and  
15 contracts of their State commission-regulated sub-  
16 sidiaries and affiliates;

17 (3) to clarify and expand a program for the  
18 procurement by State and federally-regulated tele-  
19 phone companies of technology, equipment, supplies,  
20 services, materials and construction work from busi-  
21 ness enterprises that are owned by minorities and  
22 women; and

23 (4) to ensure that a fair proportion of the total  
24 purchases, contracts, and subcontracts for supplies,  
25 commodities, technology, property, and services of-

1       fered by the providers of telecommunications services  
2       and their affiliates are awarded to minority and  
3       women business enterprises.

4   **SEC. 3. ANNUAL PLAN SUBMISSION.**

5       (a) ANNUAL PLANS REQUIRED.—

6           (1) IN GENERAL.—The Commission shall re-  
7       quire each provider of telecommunications services  
8       to submit annually a detailed and verifiable plan for  
9       increasing its procurement from business enterprises  
10      that are owned by minorities or women in all cat-  
11      egories of procurement in which minorities are under  
12      represented.

13          (2) CONTENTS OF PLANS.—The annual plans  
14      required by paragraph (1) shall include (but not be  
15      limited to) short- and long-term progressive goals  
16      and timetables, technical assistance, and training  
17      and shall, in addition to goals for direct contracting  
18      opportunities, include methods for encouraging both  
19      prime contractors and grantees to engage business  
20      enterprises that are owned by minorities and women  
21      in subcontracts in all categories in which minorities  
22      are under represented.

23          (3) IMPLEMENTATION REPORT.—Each provider  
24      of telecommunications services shall furnish an an-  
25      nual report to the Commission regarding the imple-

1       mentation of programs established pursuant to this  
2       Act in such form as the Commission shall require,  
3       and at such time as the Commission shall annually  
4       designate.

5           (4) REPORT TO CONGRESS.—The Commission  
6       shall provide an annual report to Congress, begin-  
7       ning in January 1996, on the progress of activities  
8       undertaken by each provider of telecommunications  
9       services regarding the implementation of activities  
10      pursuant to this Act to develop business enterprises  
11      that are owned by minorities or women. The report  
12      shall evaluate the accomplishments under this Act  
13      and shall recommend a program for enhancing the  
14      policy declared in this Act, together with such rec-  
15      ommendations for legislation as it deems necessary  
16      or desirable to further that policy.

17      (b) REGULATIONS AND CRITERIA FOR DETERMINING  
18      ELIGIBILITY OF MINORITY BUSINESS ENTERPRISES FOR  
19      PROCUREMENT CONTRACTS.—

20           (1) IN GENERAL.—The Commission shall estab-  
21      lish regulations for implementing programs pursuant  
22      to this Act that will govern providers of tele-  
23      communications services and their affiliates.

24           (2) VERIFYING CRITERIA.—The Commission  
25      shall develop and publish regulations setting forth

1 criteria for verifying and determining the eligibility  
2 of business enterprises that are owned by minorities  
3 or women for procurement contracts.

4 (3) OUTREACH.—The Commission’s regulations  
5 shall require each provider of telecommunications  
6 services and its affiliates to develop and to imple-  
7 ment an outreach program to inform and recruit  
8 business enterprises that are owned by minorities or  
9 women to apply for procurement contracts under  
10 this Act.

11 (4) ENFORCEMENT.—The Commission shall es-  
12 tablish and promulgate such regulations necessary to  
13 enforce the provisions of this Act.

14 (c) WAIVER AUTHORITY.—The requirements of this  
15 section may be waived, in whole or in part, by the Commis-  
16 sion with respect to a particular contract or subcontract  
17 in accordance with guidelines set forth in regulations  
18 which the Commission shall prescribe when it determines  
19 that the application of such regulations prove to result in  
20 undue hardship or unreasonable expense to a provider of  
21 telecommunications services.

22 **SEC. 4. SANCTIONS AND REMEDIES.**

23 (a) FALSE REPRESENTATION OF BUSINESSES; SANC-  
24 TIONS.—

1           (1) IN GENERAL.—Any person or corporation,  
2           through its directors, officers, or agent, which falsely  
3           represents the business as a business enterprise that  
4           is owned by minorities or women in the procurement  
5           or attempt to procure contracts from telephone oper-  
6           ating companies and their affiliates pursuant to this  
7           article, shall be punished by a fine of not more than  
8           \$5,000, or by imprisonment for a period not to ex-  
9           ceed 5 years of its directors, officers, or agents re-  
10          sponsible for the false statements, or by both fine  
11          and imprisonment.

12          (2) HOLDING COMPANIES.—Any provider of  
13          telecommunications services which falsely represents  
14          its annual report to the Commission or its imple-  
15          mentation of its programs pursuant to this section  
16          shall be subject to a fine of \$100,000 and be subject  
17          to a penalty of up to 5 years restriction from partici-  
18          pation in lines of business activities provided for in  
19          this Act.

20          (b) INDEPENDENT CAUSE OF ACTION, REMEDIES,  
21          AND ATTORNEY FEES.—

22          (1) DISCRIMINATION PROHIBITED.—No other-  
23          wise qualified business enterprise that is owned by  
24          minorities or women shall solely, by reason of its ra-  
25          cial, ethnic, or gender composition be excluded from

1 the participation in, be denied the benefits of, or be  
2 subjected to discrimination in procuring contracts  
3 from telephone utilities.

4 (2) CIVIL ACTIONS AUTHORIZED.—Whenever a  
5 qualified business enterprise that is owned by mi-  
6 norities or women has reasonable cause to believe  
7 that a provider of telecommunications services or its  
8 affiliate is engaged in a pattern or practice of resist-  
9 ance to the full compliance of any provision of this  
10 Act, the business enterprise may bring a civil action  
11 in the appropriate district court of the United States  
12 against the provider of telecommunications services  
13 or its affiliate requesting such monetary or injunc-  
14 tive relief, or both, as deemed necessary to ensure  
15 the full benefits of this Act.

16 (3) ATTORNEYS' FEES AND COSTS.—In any ac-  
17 tion or proceeding to enforce or charge of a violation  
18 of a provision of this Act, the court, in its discretion,  
19 may allow the prevailing party reasonable attorneys'  
20 fees and costs.

21 **SEC. 5. DEFINITIONS.**

22 For the purpose of this Act, the following definitions  
23 apply:

24 (1) The term “business enterprise owned by mi-  
25 norities or women” means—



1 (A) a business enterprise that is at least  
2 51 percent owned by a person or persons who  
3 are minority persons or women; or

4 (B) in the case of any publicly owned busi-  
5 ness, at least 51 percent of the stock of which  
6 is owned by one or more persons who are mi-  
7 nority persons or women, and whose manage-  
8 ment and daily business operations are con-  
9 trolled by one or more of those persons.

10 (2) The term “minority person” means persons  
11 who are Black Americans, Hispanic Americans, Na-  
12 tive Americans, Asian Americans, and Pacific Amer-  
13 icans.

14 (3) The term “control” means exercising the  
15 power to make financial and policy decisions.

16 (4) The term “operate” means the active in-  
17 volvement in the day-to-day management of the  
18 business and not merely being officers or directors.

19 (5) The term “Commission” means the Federal  
20 Communications Commission.

21 (6) The term “telecommunications service”  
22 means the offering, on a common carrier basis, of  
23 telecommunications facilities, or of telecommuni-

- 1 cations by means of such facilities. Such term does
- 2 not include an information service.

